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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,082	11/29/2001	Laszlo Hars	US010203	4368

24737 7590 10/12/2005

PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER
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ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/998,082

Applicant(s)

HARS ET AL.

Examiner

Pierre E. Elisca

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5 and 8-15 is/are rejected.  
7) ☒ Claim(s) 6 and 7 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 2/12/2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This office action is in response to Applicant's response, filed on 08/05/2005.
2. Claims 1-15 are remain in the application.
3. The rejection to claims 1-5, and 8-15 under 35 U.S.C 102 (e) as being anticipated by Philips and Tagawa as set forth in the office action mailed on 5/12/2005 is maintained.

***Allowable Subject Matter***

4. Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 1 is rejected under 35 USC 101 because it is directed to non-statutory subject matter, specifically as directed to an abstract idea. Claim 1 recites a method of attacking a screening algorithm which do not define any structural and functional interrelationships with a general purpose computer for permitting the claimed functions to be realized. In contrast, a statutory claim would define structural and functional

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interrelationships between data structures or functional parts and a computer which permit the data functions to be realized. Thus, the claims are rejected as being non-statutory as described above. Also, claim 1 recites " a duration step" which is a non-functional descriptive material.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-15 are rejected under 35 U.S.C. 102 (e) as being anticipated by Philips US 2002/0107802A1.

As per claim 1, Philips discloses a method of downloading music over the internet, comprising;

Identifying content to be downloaded (see., abstract, page 1-page3);

Partitioning the content into at least two sections wherein each of the at least two sections has a duration which is less than a threshold duration value assigned by the screening algorithm (see., abstract, pages 1-8. It is inherent to recognize that each

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AUDIO/VIDEO has a plurality of sections (sections or tracks). Also, each section or track has a time duration);

Subjecting the partitioned content to the screening algorithm (see., abstract, pages 1-8, algorithm or encryption).

As per claims 2 and 3, Philips discloses the claimed method wherein the screening algorithm is a secure digital music initiative screening algorithm see., abstract, pages 1-8, algorithm or encryption).

As per claim 4, Philips discloses the claimed method wherein the content is downloaded from the internet ( see., page 2).

9. Claims 1-5, and 8-15 are rejected under 35 U.S.C. 102 (e) as being anticipated by Tagawa et al US 2005/0010795 A1.

As per claims 1-15 Tagawa discloses a digital data recording medium, comprising;

Identifying content to be downloaded (see., abstract, page 1-page15 );

Partitioning the content into at least two sections wherein each of the at least two sections has a duration which is less than a threshold duration value assigned by the screening algorithm (see., abstract, pages 1-16. It is inherent to recognize that each AUDIO/VIDEO has a plurality of sections (sections or tracks). Also, each section or track has a time duration);

Subjecting the partitioned content to the screening algorithm (see., abstract, pages 1-16, algorithm or encryption).

## RESPONSE TO ARGUMENTS

10. Applicant's arguments filed on 08/05/2005 have been fully considered but they are not persuasive.

## REMARKS

11. In response to Applicant's arguments, Applicant has stated that:

a. The Examiner rejected claim 1 under 35 USC 101 as being directed to non-statutory subject matter, specifically as directed to an abstract idea. To qualify as statutory subject matter, the claimed invention as a whole must accomplish a practical application. It must produce a "useful, concrete and tangible result". *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F. 3d 1368, 1373; 47 USPQ2d 1596, 1601-1602 (Fed.Cir. 1998) MPEP 2106 (I)(A). In a Section 101 rejection, the patent Examiner has the burden to establish a prima face case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. Only when the claim is devoid of any limitation to a practical application in the technological arts should the application be rejected under 35 USC 101. MPEP 2106 (I)(A). Accordingly, Applicant above statement is correct.

However, *Applicant has failed to provide the limitation to a practical in the technological arts.* Applicant is aware of the law and he is not complied to the law. Moreover, Applicant newly added limitation is also not in compliance with *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F. 3d 1368, 1373; 47 USPQ2d 1596, 1601-1602 (Fed.Cir. 1998) MPEP 2106 (I)(A). Therefore, the 35 USC 101 rejection is maintained.

b. neither Philips nor disclose partitioning downloaded content into at least two sections wherein each of the at least two sections has a duration that is less than a threshold duration value. However, the Examiner respectfully disagrees with this assertion since Philips and Tagawa disclose this limitation in pages 1-8.

c. each section or track of a recorded item has a time duration. As indicated above, it is inherent to recognize that each AUDIO/VIDEO has a plurality of sections (sections or

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tracks). Also, each section or track has a time duration.

**Conclusion**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Pierre Eddy Elisca

**Primary Patent Examiner**

**October 05, 2005**